



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1994

Ms. Sammie K. Glasco  
Assistant General Counsel  
Texas Department of Banking  
2601 N. Lamar Boulevard  
Austin, Texas 78705-4294

OR94-186


Dear Ms. Glasco:

You ask that this office reconsider its determination in Open Records Letter No. 94-095 (1994), in which we held that the names of certain funeral homes do not tend to reveal the identities of "informants" who have filed complaints with the Texas Department of Banking (the department), and thus must be released under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25166.

You contend that because individual funeral homes are generally small businesses, the disclosure of the name of an individual funeral home is tantamount to disclosing the name of the "principal individual(s)" associated with the particular funeral home. While this may be true, you have nevertheless failed to establish how, in this instance, the disclosure of the name of a particular funeral home would necessarily reveal the identity of an "informant" who filed a complaint with the department. Information in the custody of a governmental body is presumed to be available to the public, subject only to the specific exceptions listed in the Open Records Act. Gov't Code § 552.021. Thus, the Open Records Act places on the governmental body the burden of demonstrating that an exception applies to requested information. Open Records Decision No. 542 (1990) at 2. To protect information under the informer's privilege, a governmental body must demonstrate that the information will reveal the informer's identity. *C.f.* Open Records Decision No. 515 (1988) at 2. If the governmental body fails to make this demonstration, then it waives the informer's privilege. Open Records Decision No. 549 (1990) at 6.

Because you have not demonstrated why the "informer's privilege" applies to the names of the funeral homes at issue here, we decline to reconsider our ruling in Open Records Letter No. 94-095.

Yours very truly,

A handwritten signature in cursive script, reading "Margaret A. Roll".

Margaret A. Roll  
Assistant Attorney General  
Open Government Section

MAR/RWP/rho

Ref.: Open Records Letter No. 94-095  
ID# 25166

Enclosures: Submitted documents

cc: Mr. Russell D. Moore  
President  
Casket Gallery International, Inc.  
411 East U.S. Highway 80, Suite 106  
Mesquite, Texas 75150  
(w/o enclosures)